

Commentary: Court will have a big say on Legislature's school shortcomings



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The Temple of Justice, where the Washington Supreme Court meets
Credit: [Cacophony/Wikimedia Commons](#)

It's finally over. After 177 days, the longest session in state history, the 2015 Legislature has finally gone home for the year. Or has it?

Despite all the momentous and commendable policy decisions they made this year, legislators, by their own admission, failed to comply with the state Supreme Court's order that they adopt a plan showing how they will achieve full state funding of basic education by 2018. And they adopted a budget that actually increases the unconstitutional reliance on local levies. So now all eyes turn to the Court. Will they take action to force lawmakers back to Olympia to deal with education funding?

This session was long, contentious, emotional and often not very pretty. Dozens of important bills passed, but on the biggest issues the Democratic House and the Republican Senate were gridlocked until the very end when the threat of the first state government shutdown in history forced them to come together and pass a budget. Even then the session didn't end. Decisions on transportation bonds, high stakes testing in schools and how to deal with the class size initiative, I-1351, pushed the session to July 10.

Republicans, especially in the Senate, feel like they came away as winners. Just as two years ago they can boast that they increased spending for education without raising taxes. (Yes, some minor tax loopholes were closed.)

Democrats, on the other hand, are grumpy, and frustrated that they had to surrender one by one on their main objectives: raising the minimum wage, cap and trade to limit carbon emissions, a capital gains tax.

These political calculations and maneuvers mean a lot in the marble halls of Olympia. But in the real world, Republicans and Democrats came together in the end and agreed to two major legislative achievements that are going to change lives in Washington state.

First, Republicans and Democrats worked together and passed a massive transportation package. This agreement will fund major highway improvement projects that have been on the drawing board for up to 20 years, and it will authorize public votes on mass transit expansion, including Sound Transit phase 3. This package will create thousands of jobs, reduce congestion and take transportation off the table as a major political issue for the foreseeable future.

Second, led by the Senate Republicans, the Legislature significantly cut [higher education tuition rates](#). This is a huge policy decision which reverses a trend, begun in the 2009 and 2011 state budgets, of relying on higher tuition and more financial aid to fund our universities. This decision will ease the burden on middle-class families, and, politically, it is a dramatic step back towards a more pragmatic, suburban-friendly Republican message.

In a normal year, the progress made to improve our transportation system and make college more affordable would mark this as a tremendously successful session, no matter how messy it was or how long it took. But the court's *McCleary vs. State of Washington* ruling prevents this session from being "normal."

As [I wrote earlier](#) this year, despite the fact that this issue has been percolating for decades very few people seem to really grasp what the *McCleary* decision is all about. This was a common observation among education lobbyists throughout the 2015 session.

So let's review [McCleary](#):

The Washington State Constitution says it is the state's "paramount duty" to "amply fund" a "uniform" system of public schools.

Our per-pupil expenditures are among the lowest in the nation. That's not ample. And school districts rely on local levies for up to one-third of their funding. Given the disparities in local wealth and levy funds among districts, that's not uniform.

The original, 2012 McCleary decision directed the state to fund a new "prototypical school model" by 2018 without the use of levies. The Court didn't pull this order out of thin air; they were simply directing the Legislature to actually fund the education model, and meet the timelines legislators themselves established when they passed House Bill 2261 in 2009.

Little progress was made during the 2012 and 2013 sessions so the court justices ordered the Legislature to show them a specific, detailed, "complete" plan in 2014 for achieving full funding by 2018. The 2014 Legislature failed to adopt such a plan. The court found the state in contempt but withheld sanctions until after the 2015 session. But the Legislature, once again, did not pass a McCleary plan this year.

Why is this so difficult? Because actually meeting the court's order will require billions of new dollars over and above what the Legislature has already spent. And doing away with levies for basic education will impact local bargaining, potentially changing dramatically how we govern our schools.

Yes, the Legislature has put roughly \$2 billion more into our schools in the past two budgets. Lawmakers have reduced class sizes in grades K-3, and put money into all-day kindergarten and school transportation, materials and operating costs. But that is just the beginning of the state's obligation.

There are still thousands of teachers and other educational staff who derive some or all of their compensation from local levies. That's unconstitutional. The state must pay 100 percent of the compensation for basic education. In addition, the prototypical school model referred to by the court includes lower class sizes in grades 4-12, and the hiring of thousands more paraeducators, administrators, counselors and support staff. The total additional cost to fully implement the model without local levies is over \$5 billion per year.

So the Legislature has to find a funding source to replace levies and increase overall education spending by billions of dollars. Ideas have been floated and bills introduced, but to this point there has been no political will to engage in serious bipartisan, bicameral negotiations on this huge issue.

Similarly, there is no consensus on how to limit the use of levies and change education governance. The powerful Washington Education Association, which represents teachers, is adamantly opposed to a law undermining local bargaining, but if you can't use levies to fund basic compensation, what is there to bargain over locally?

The 2015 Legislature put more money into K-12, but it made no progress on these daunting structural issues and the legislators have no plan to show the court. In fact, four years after the original McCleary decision, the State of Washington still has no plan for how to create a constitutional educational funding system.

What will the state Supreme Court do? No one knows. But a common belief in Olympia is that the court must now take some sort of action, and that action will most likely result in lawmakers returning to work for a fourth special session sometime this year. A decision from the court seems likely before Labor Day.

So will the 2015 Legislature be remembered for achieving remarkable bipartisan progress on transportation and higher education, or for failing to avoid a messy constitutional showdown over education funding? Stay tuned. We're not done yet.